



## **CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE**

**DATE/TIME: Monday, September 21, 2009  
7:00 p.m.**

**LOCATION: Police Department Auditorium  
870 Santa Barbara Drive**

Roll Call

1. Minutes of August 17, 2009 (*attachment*)
2. Report from subcommittee on Draft EIR for Megonigal residence (2333 Pacific Drive) and review and approval of comments (*Subcommittee report attached*)
3. Discussion and recommendation to City Council on potential regulation of leaf blowers (*attachment*)
4. Review and confirmation of subcommittee assignments on Draft EIR for Civic Center project (*attachment*)
5. Task Force on Green Development Representatives' Report
6. Coastal/Bay Water Quality Committee Representatives' Report
7. Economic Development Committee Representative's Report
8. Report from Staff on Current Projects
9. Public Comments
10. Future Agenda Items
11. Adjournment

**NEXT MEETING DATE:**

**October 19, 2009**

\*Attachments can be found on the City's website <http://www.newportbeachca.gov>. Once there, click on **Agendas and Minutes** then scroll to and click on **Environmental Quality Affairs**. If attachment is not on the web page, it is also available in the City of Newport Beach Planning Department, 3300 Newport Boulevard, Building C, 2<sup>nd</sup> Floor.



## CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

### DRAFT MINUTES 8-17-09

Draft minutes of the Environmental Quality Affairs Committee held at the City of Newport Beach City Council Chambers, 3300 Newport Boulevard, on **Monday, August 17, 2009.**

#### Members Present:

X	Nancy Gardner, Council Member	X	Barbara Thibault
E	Michael Henn, Council Member	X	Laura Curran
X	Kenneth Drellishak, Chair	E	Vincent Lepore
X	Kimberly Jameson	X	Kevin Nolen
X	Kevin Kelly	X	Arlene Greer
X	Michael Pascale	X	Sandra Haskell
E	Michael Smith	E	Kristine Adams
	Jeff Herdman	X	Timothy Stoaks
E	Nick Roussos	X	Jay Myers
X	Joan Penfil	X	Charles McKenna
E	Bruce Asper	X	Ray Halowski
X	Merritt Van Sant	E	Michael Alti

#### Staff Representatives:

#### Guests:

X	Sharon Wood, Assistant City Manager	George Murdoch, Utilities Director Philip Bettencourt
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Chairperson Drellishak called the meeting to order at 7:05 p.m.

1. Minutes of June 15, 2009

Ray Halowski moved to approve the minutes of June 15, 2009, with the correction to show Barbara Thibault as excused. Arlene Greer seconded the motion.

#### Motion passed unanimously

2. Report on implementation of expanded polystyrene (EPS) ban from Stephanie Barger, Earth Resources Foundation and Assistant City Manager Sharon Wood

Chairperson Drellishak provided background on the ordinance, and introduced Stephanie Barger. She noted that an intern survey of 108 restaurants in June found that a majority knew about the ordinance and had implemented it. Four hardship exemptions had been granted by the City, and three restaurants are known to be out of compliance. Sharon Wood provided a handout explaining the hardship exemptions she had approved (attached).

3. Report on draft water conservation ordinance from Utilities Director George Murdoch

George Murdoch reviewed an outline of the draft ordinance (attached), and responded to questions from Committee members.

4. Task Force on Green Development Representative's Report

Nancy Gardner reported that the Task Force had not met during the summer.

5. Coastal/Bay Water Quality Committee Representative's Report

Nancy Gardner reported that the Committee has been working on priorities, emphasizing projects over studies. They also reviewed the Water Quality Master Plan.

6. Economic Development Committee Representative's Report

Chairperson Drellishak reported that EDC had received reports on two consulting services the City is using to try and attract new businesses to empty retail spaces. CoStar is a service that provides real estate information, and Buxton Community Marketing has studied the kinds of businesses that are looking for demographic profiles like Newport Beach's.

7. Report from Staff on Current Projects

Sharon Wood reported that the Draft EIR on the Megonigal residence will be released on August 21, and review of comments should be on the September agenda. The Draft EIR on the Civic Center project should be released on August 31; it has a 45-day review period, and can be on the October agenda. The Draft EIR on Sunset Ridge Park is expected in November.

9. Public Comments - None.

8. Future Agenda Items

Nancy Gardner and Chairperson Drellishak reported that they continue to receive complaints and questions about leaf blowers, and would like this matter placed on the September 21 agenda.

11. Adjournment

Chairperson Drellishak adjourned the meeting at 8:35 p.m.

## **EPS ORDINANCE EXEMPTIONS**

### **Chapter 6.05.040. Undue Hardship.**

A. The City Manager or his/her designee may exempt a food provider from the requirements of this ordinance for up to a one year period, based upon a written request from the applicant containing sufficient information to determine that the conditions of this ordinance would cause undue hardship. An "undue hardship" shall be found in the following situations:

1. Situations unique to the food provider where there are no reasonable alternatives to expanded polystyrene disposable food service ware and compliance with this Chapter would cause significant economic hardship to that food provider;
2. Situations where no reasonably feasible available alternatives exist to a specific and necessary expanded polystyrene food service ware.

A food vendor granted an exemption by the City must reapply prior to the end of the exemption period and demonstrate continued undue hardship, if it wishes to have the exemption extended. Extensions may be granted for intervals not to exceed one year.

### **Exemptions Granted:**

1. Booster Juice, June 2, 2009, six months, economic hardship

Parent company filed for bankruptcy and will not help with conversion; cost of minimum order is \$15,000.

2. My Galley, June 2, 2009, two months, economic hardship

New business owner received late notice of ban; had just bought supply of foam cups (only EPS product used in business).

3. Original Mama D's Italian Kitchen, June 5, 2009, one month, economic hardship

Switched to paper products, but had two-week supply of EPS cups to use.

4. Newport-Mesa Unified School District, July 29, 2009, one year, five-compartment trays only, no feasible alternative

Switched to biodegradable paper trays and other non-EPS material, except for five-compartment trays used for sauce and gravy meals, for which there is no alternative at this time.

**WATER CONSERVATION ORDINANCE SUMMARY TABLE**

<b>Permanent Restrictions (all persons)</b>	<b>Level 1 Shortage Warning</b>	<b>Level 2 Significant Shortage</b>	<b>Level 3 Severe Shortage</b>	<b>Level 4 Crisis Shortage</b>
<p>A. Irrigation system limit of 10 minutes per station</p> <p>B. No excessive water flow or runoff</p> <p>C. No washing down hard or paved surfaces</p> <p>D. Obligation to fix leaks (within 7 days of notice)</p> <p>E. No irrigating during rain</p> <p>F. Auto shutoff rain sensors required for irrigation 7/1/2012</p> <p>G. Fountains: re-circulating water only</p> <p>H. Wash vehicles only with bucket or shut-off nozzle</p> <p>I. No installation of non re- circulating car wash systems</p> <p>J. Commercial car wash systems use re-circulating system by 1/1/2013</p> <p>K. Restaurants only serve water on request</p> <p>L. Hotels must provide guests option to not launder linen daily</p> <p>M. No installation of single-pass cooling systems</p> <p>N. Commercial laundry systems use of energy efficient machines</p> <p>O. Unauthorized use of fire hydrants restricted</p> <p>P. Construction site requirements: Hose with nozzle, recycled water when available</p> <p>Q. New/remodeled commercial kitchens must use water conserving nozzles. Existing commercial kitchens: no defrosting of food with running water, wash down for sanitary reasons with nozzle</p>	<p><i>Permanent Restrictions and:</i></p> <ul style="list-style-type: none"> <li>○ Watering limited to: 4 days a week for customers</li> <li>○ Customers to reduce indoor/outdoor consumption by 0-10% (percentage set by resolution)</li> <li>○ Fix leaks within 72 hours</li> <li>○ Filling or re-filling ornamental lakes or ponds no more than once/week</li> <li>○ Fountains/pools fill no more than once/week</li> </ul>	<p><i>Permanent Restrictions + Level 1 and:</i></p> <ul style="list-style-type: none"> <li>○ Watering limited to: 3 days a week for customers (areas defined by billing route)</li> <li>○ Customers to reduce indoor/outdoor consumption by 11-25% (percentage set by resolution)</li> <li>○ No watering: 9am-5pm; except by hand</li> <li>○ Fix leaks within 48 hours</li> <li>○ Filling or re-filling ornamental lakes or ponds no more than once every other week</li> <li>○ Filling residential pools or outdoor spas once every other week</li> </ul>	<p><i>Permanent Restrictions + Level 1 &amp; 2 and:</i></p> <ul style="list-style-type: none"> <li>○ Watering limited to: 2 days a week for customers (areas defined by billing route)</li> <li>○ Customers to reduce indoor/outdoor consumption by 26-40% (percentage set by resolution)</li> <li>○ Fix leaks within 24 hours</li> <li>○ Prohibited filling of fountains/pools</li> <li>○ Prohibited filling or re-filling ornamental lakes or ponds</li> </ul>	<p><i>Permanent Restrictions + Level 1,2,&amp;3 and:</i></p> <ul style="list-style-type: none"> <li>○ No Watering or Irrigating: Does not apply to: <ul style="list-style-type: none"> <li>• Watering by bucket or hand-held hose with self-closing shutoff nozzle</li> <li>• Fire protection</li> <li>• Necessary erosion control</li> <li>• Needs of rare animals</li> <li>• Active parks, schools, cemeteries, golf course greens</li> <li>• Environmental mitigation projects</li> <li>• Food Crops</li> </ul> </li> <li>○ No new potable water service without valid building permit</li> </ul>
	<div>Existing/Proposed CNB Ordinance - <b>Black</b> MET Ordinance – <b>Red</b> CUWCC BMP 13 – <b>Blue</b></div>		<div> <b>Penalties: Permanent restrictions and levels</b> <ol style="list-style-type: none"> <li>1. Notice of Warning</li> <li>2. Infraction – Municipal Code violation <ol style="list-style-type: none"> <li>a. \$100 first infraction</li> <li>b. \$200 second infraction</li> <li>c. \$500 each additional infraction</li> </ol> </li> <li>3. Flow restrictor</li> <li>4. Discontinue of Service</li> </ol> </div>	

TO: City of Newport Beach, Planning Department  
3300 Newport Blvd.  
Newport Beach, CA 92658-8915

September 22, 2009

Attention: James Campbell, Principal Planner

FROM: Environmental Quality Affairs Citizens Advisory Committee (EQAC)

Subject: Megonigal Residence DEIR dated August 2009

EQAC is pleased to submit the following comments on the Subject DEIR. These are presented in order of appearance in the DEIR with relevant section/page references to facilitate your review.

#### 4.1 Land Use and Planning

Page 4.1-1, Existing Land Use, identifies "A large retaining wall ranging from four feet to 15 feet in height.....along the southern property boundary...." Is there a code governing the height of these walls and are they in compliance?

Page 4.1-9, Policy No. LU 3.2 under Relationship to Policy, the DEIR states that "The applicant is proposing to construct....permitted by the Land Use Element of the City's General Plan and the existing R-1 zoning". Since the graphics in the DEIR (e.g. Exhibits 3-6, 3-7, 3-8) have illegible lettering, it is impossible to confirm this statement. In addition, development in this neighborhood is governed by Newport Beach Municipal Code 20.10.040, Special Development Regulations for Corona Del Mar, West Newport and Balboa Peninsula. Please confirm that the Floor Area Limit, Building Area and all set backs are in compliance with these Municipal Code Special Regulations by explicitly stating them.

Exhibit 3-8 (Rear Elevation) page 3-14, shows a 2 story excavation below the ground level at Pacific Drive. Since construction will be so far down the bluff side, is there a requirement to comply with a local PLOED (Predominant Line of Existing Development)?

Page 4.1-16, CLUP 2.8.7.2 relates to site drainage and erosion control. The Relationship to Policy answer is that "...the applicant must submit an adequate drainage and erosion control plan..." Does this plan cover all phases of the project – demolition, construction and operational? Particular emphasis must be given to the properties at the bottom of the bluff on Bayside Drive (lots 2340 and 2360, Exhibit 3-4, page 3-6). These are vulnerable during all phases of the project and there must be assurances of adequate slide/erosion control up to and throughout the operational phase .

## 4.2 Biological Resources

The DEIR states (page 4.2-3, paragraph 1) that the overall native cover on the project site is small (i.e. less than 10%). They conclude that no mitigation is required, and this is true. However, replacement of biological species on the project site with native species would be beneficial and should be a project objective.

The DEIR also states (page 4.2-6 and Appendix C) that the Cooper's Hawk, a California Species of Concern (CSC), has been observed roosting and hunting at Begonia Park. The small preservation of native species noted above might help to preserve the Cooper's Hawk habitat in this area.

## 4.3 Aesthetics

Neither the site nor the adjacent properties have been identified by the City as a visual or aesthetic resource, it is not an environmentally sensitive habitat area, and even though the "view" from Pacific Drive and Begonia Avenue will be blocked with the construction of this home, these are not designated as "Public View Corridors" (views are not protected from these streets. The simulations from Begonia Park are excellent and simply do not hinder the view of the harbor from either the lower or upper portions of this park. All of the factors that would have a significant aesthetic impact in terms of view simply do not exist. The home has even been redesigned to be below the maximum allowable height limit. Lighting will be energy efficient and will also be shielded or recessed as required by code resulting in no significant lighting impacts.

The DEIR affirms that they are completely within code and other requirements. The proposed simulations will really enhance the understanding of the impact of completed project.

## 9.3 Cumulative Impacts

### 9.3.1- Land Use and Planning

The DEIR states "... no design component or feature of the project would physically divide or otherwise adversely affect or significantly change an established community." This is conclusory. What evaluations / studies were made to come to this conclusion? Were all possible affects looked into before reaching this conclusion? It seems arguable that a project of this size, at this location, would not change the neighborhood.

### 9.3.4- Hydrology and Water Quality

What is the possibility of future projects within the area, the existence of which could in fact affect watershed sub-area?

#### 9.3.6- Traffic and Circulation

What are the specifics of the Construction Management Plan? In other words, how can we determine the construction phase effect on traffic before the CMP is drafted?

#### 9.3.10 - Noise

How can we be assured that the construction phase is 20 months? Is this a realistic time estimate?

#### 9.3.13 - Aesthetics

What are the specifics of the visual simulations prepared for this project? Can we obtain that information?

EQAC appreciates the opportunity to comment on the Subject DEIR. We hope that our inputs are useful in achieving the optimum project for the applicant and the City of Newport Beach.



**THE FOLLOWING 2 PAGES ON DEIR COMMENTS WERE RECEIVED AFTER MAILING OF THE EQAC AGENDA PACKET. THESE COMMENTS HAVE BEEN DISTRIBUTED TO EQAC MEMBERS AND ARE AVAILABLE TO THE PUBLIC.**

The Alternatives analysis indicates that with 10.3.2 Alternative Design (Remove Upper Level), Biological Resources, 'the elimination of this small area composed of only three species characteristic of that habitat would not be significant because the habitat has been fragmented and affected by human activities.' This refers to 261 square feet of Coastal Sage habitat, composed of 3 non-endangered species would be lost through the alternatives.

The loss of 261 square feet of habitat will reduce the presence of local plant habitat. The fact that these habitats were not protected in prior building on the bluff (as noted elsewhere in the document) is not relevant to this application. If an option is approved, the applicant should be required to ensure that 261 square feet of Coastal Sage Scrub remains on the site, with the majority (75%+) being on the bluff location.

An option could be to sponsor revegetation of CSS within close distance to the site, i.e. at Begonia Park.

Laura Curran  
949 675 3144 (o)  
714 351 7379 (c)

# Memorandum

**To:** Kenneth Drellishak

**From:** Vincent J. Le Pore III

**Date:** 09/16/2009

**Re:** Megonigal Residence DEIR  
Review of Section 4.1 - Land Use and Planning

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1. Section 4.1.4.1 (page 7 of Section 4.1) states that “no short term land use impacts (i.e. those related to construction activities) are anticipated as a result of project implementation.” Section 3.2.1 (page 1 of Chapter 3) states the elevations on the site range from approximately 25 feet above mean sea level (“MSL”) at the base of the coastal bluff along the westerly property boundary, to approximately 72 feet above MSL in the northwesterly corner of the site. Given that the site is on a coastal bluff with varying elevations, obviously there are construction challenges, and as such, for support of the DEIR’s above “no impact” claim, an analysis should be provided as to the short term impacts related to the construction activities (e.g. the challenges of construction on a coastal bluff with varying elevations and possible impacts on use of property/streets west of the westerly boundary).
2. Policy No. LU1.6 of the Newport Beach General Plan (“NBGP”) requires the protection and, where feasible, enhancement of scenic and visual resources. In the Table 4.1-1 General Plan Policy Analysis on this policy (page 8 of Section 4.1) it is stated that the project has been redesigned to minimize the visual impacts on Begonia Park (it is designated Public View Point under the NBGP and CLUP); however, the redesign project will block the view of the harbor and ocean from Pacific Drive (not a Public View Point). Given the stated goals of Policy No. LU1.6, an analysis of possible mitigation factors should be addressed to protect the view from Pacific Drive.
3. The NOP responses from the Native American Heritage Commission and Doctor Jan. D. Vandersloot which are contained in Appendix B expressed concern that the site may have Native American cultural resources, and Dr. Vandersloot specifically requested that a cultural resource analysis be performed. In addition, the Native American Heritage Commission specifically requested the use of Native American Monitors if a professional archeologist will be required for the project, and that further contact be made with the “Native American Contacts” which were identified on a list provided to the City, for their input on the project. No cultural resource analysis was made, but one should be done.
4. NBGP Policy No. NR18.3 states that a qualified representative from Native American Organizations should be allowed to monitor grading and/or evacuation of development sites; however, in the analysis of this policy and NBGP Policy No. HR2.1 (on pages 12 and 9 of Section 4.1, respectively), only a qualified archeologist will be on site to monitor (i.e. no Native American Monitor as requested by the Native American Heritage Commission and contrary to Policy No. NR18.3). Also, in regard to the analysis of Policy No. NR18.3, there is no indication that the Native American Contacts listed by the Native American Heritage Commission were contacted for comment on the NOP.

5. CLUP Policy No. 4.4.1-1 also requires the protection and enhancement of scenic and visual qualities of the coastal zone (similar to NBGP Policy No. LU1.6). Similarly, the analysis of this CLUP Policy states that the project has been redesigned to mitigate the impact on the view from Begonia Park (a Public View Point); however the project will block views to the bay and ocean from Pacific Drive and Begonia Ave. Again, additional analysis should be conducted for possible mitigation measures that could be taken to comply with this CLUP Policy (i.e. in addition to the view easement above the currently planned single family residence, as currently required by the City). This analysis should also address possible mitigation measures to reduce the conflicts with related CLUP Policies (e.g. 4.4.1-2, 4.4.1-5, 4.4.1-7, 4.4.2-2, 4.4.2-3, and 4.4.3-9).
6. CLUP Policies 4.5.1-1 through 4.5.1-5 (pages 21 and 22 of Section 4.1) deal with cultural resources in the same manner as the above referenced policy numbers of the NBGP. As such, the cited actions of the project and the absence of a cultural resource analysis likewise conflict with the Sections of the CLUP.
7. Section 4.1.5 (page 27 of Section 4.1) states that the proposed project is consistent with the CLUP of the Newport Beach General Plan, as a result, no significant long term land use impacts are anticipated and no mitigation measures are required. However, the summary paragraph following the analysis of the Newport Beach General Plan (on page 14 of Section 4.1) states that a mitigation measure has been identified to ensure that the coastal views from Begonia Park are preserved. Also, in the summary paragraph following the analysis of the CLUP (on page 23 of Section 4.1), it is stated that a mitigation measure (i.e. dedication of a view easement) has been prescribed to ensure the future view through the site from Begonia Park are protected.

## **CHAPTER 1.0 EXECUTIVE SUMMARY**

### **1.1 Description of the Proposed Project**

#### **1.1.1 Project Location**

The City of Newport Beach is an urbanized coastal community located in western Orange County. Newport Beach is bordered by the Cities of Irvine on the north and northeast and by Costa Mesa on the north and northwest. Crystal Cove State Park, in unincorporated Orange County, is located southeast of the City's corporate boundaries. On the west, the incorporated limits of the City extend to the Santa Ana River; the City of Huntington Beach is located west of the Santa Ana River. The Pacific Ocean comprises the southern boundary of the City.

The site is located at 2333 Pacific Avenue in the City of Newport Beach. The subject property currently consists of a single parcel encompassing 4,412 square feet (i.e., 0.1 acre). The site is current vacant but has been altered by some grading and vegetation clearance. The site supports a variety of native and non-native landscape species.

#### **1.1.2 Project Description**

The project applicants, Kim and Caroline Megonigal, are proposing to construct a 3,566 square-foot, single-family residence. The proposed residence will consist of three levels: 1,827 square feet on the first floor; 934 square feet on the second floor; and 805 square feet on the uppermost level (includes a 428-square foot, 2-car garage). Vehicular access is from Pacific Drive at the intersection of Begonia Avenue and Pacific Drive. In addition to the indoor living area, 1,004 square feet of outdoor patio space on the three levels is provided. The applicant is requesting approval of Modification Permit No. 2007-080 to allow planter walls and a water feature to exceed the three-foot height limit requirement in the front yard setback. In addition, because the proposed planter walls and water feature would also encroach up to 13 feet into the Begonia Avenue right-of-way, an encroachment permit from the City's Public works Department will also be required.

The following discretionary approvals are requested or required by the City in order to implement the project:

- Modification Permit (MD2007-080)

#### **1.1.3 Project Phasing**

The applicant is proposing to construct the entire project in a single construction phase over a period of approximately 20 months.

#### **1.1.4 Project Objectives**

Implementation of the proposed project will achieve the following intended specific objectives, which have been identified by the project applicant:

- Construction of a custom, single-family residence consistent with the General Plan and Zoning designations adopted for the project that:

- (1) provides adequate floor area within a personalized floor plan to accommodate the applicant's living needs;
- (2) provides views of the harbor and Pacific Ocean to the south and west from each level;
- (3) provides outdoor living areas that are directly accessible from indoor spaces on each level;
- (4) provides access from Pacific Drive to an enclosed garage; and
- (5) minimizes impacts on public views from Begonia Park.

## **1.2 Alternatives**

### **1.2.1 Summary of Alternatives**

CEQA requires that an EIR describe a range of reasonable alternatives to the project, or to the location of the project, which could feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project, and to evaluate the comparative merits of the alternatives. Chapter 10 sets forth potential alternatives to the proposed project and evaluates them as required by CEQA. Several alternative development scenarios have been identified as a means of reducing potentially significant impacts associated with implementation of the proposed project. These alternatives include:

- Alternative Site
- No Project/No Development
- Alternative Design (Remove Upper Level)
- Alternative Access (Bayside Drive)

### **1.2.2 Environmentally Superior Alternative**

Chapter 10 describes the criteria that were used to select those alternatives for detailed analysis and to screen others from further detailed consideration. CEQA also requires that the EIR identify the environmentally superior alternative among all of the alternatives considered. The No Development alternative identified and analyzed in Chapter 10.0 will eliminate all of the project-related effects (which are identified as less than significant). However, CEQA requires that if the "no project" alternative is the environmentally superior alternative, an environmentally superior alternative among the other alternatives shall be identified. Based on the comparative analysis of alternatives provided in Chapter 10, the Alternative Design (Remove Upper Level) project alternative would be considered to be environmentally superior in that its implementation would result in a reduction of impacts to public views, which were determined to be less than significant.

## **1.3 Areas of Controversy**

The areas of controversy identified during the scoping process and at public hearings conducted prior to the preparation of the EIR, are addressed in the EIR and include:

- Public Views
- Sensitive Habitat/Species
- Consistency with General Plan and Coastal Land Use Plan Policies

## 1.4 Issues to be Resolved

The environmental analysis presented in an initial study prepared for the proposed project and in Chapter 4.0 and Chapter 5.0 of the Draft EIR identify potentially significant project-related impacts; however, in those instances, specific mitigation measures have been included to reduce the potential significant adverse effects to a less than significant level. No significant unavoidable adverse impacts will occur as a result of project implementation.

## 1.5 Impact Summary Table

Table 1-1 summarizes the significant adverse impacts of the proposed project. The table also provides a summary of the potential impacts found to be less than significant, and which do not require mitigation. Each environmental resource area covered in the main text is summarized. Also, impacts found to be significant are listed along with the proposed mitigation measures. The residual impacts after application of mitigation measures are also indicated for each significant impact.

## 1.6 Summary of Standard Conditions

The proposed project will incorporate, where necessary or required, standard conditions as imposed by the City and/or other responsible agencies. The standard conditions that will be implemented are presented below.

### Air Quality

SC-1 Since the South Coast Air Basin is in non-attainment with respect to ozone and PM<sub>10</sub>, and the construction emissions would add to the regional burden of these pollutants, a vigorous set of air pollution control measures is recommended during the construction phases. The measures include:

- During grading activities, any exposed soil areas shall be watered at least four times per day. Stockpiles of crushed cement, debris, dirt or other dusty materials shall be covered or watered twice daily. On windy days or when fugitive dust can be observed leaving the proposed project site, additional applications of water shall be applied to maintain a minimum 12 percent moisture content as defined by SCAQMD Rule 403. Soil disturbance shall be terminated whenever windy conditions exceed 25 miles per hour.
- Truck loads carrying soil and debris material shall be wetted or covered prior to leaving the site. Where vehicles leave the construction site and enter adjacent public streets, the streets shall be swept daily.
- All diesel-powered machinery exceeding 100 horsepower shall be equipped with soot traps, unless the Contractor demonstrates to the satisfaction of the City Building Official that it is infeasible.
- The construction contractor shall time the construction activities, including the transportation of construction equipment vehicles and equipment to the site, and delivery of materials, so as not to interfere with peak hour traffic. To minimize obstruction of through traffic lanes adjacent to the site, a flag person shall be

retained to maintain safety adjacent to existing roadways, if deemed necessary by the City.

- The construction contractor shall encourage ridesharing and transit incentives for the construction workers.
- To the extent feasible, pre-coated/natural colored building materials shall be used. Water-based or low VOC coatings shall be used that comply with SCAQMD Rule 1113 limits. Spray equipment with high transfer efficiency, or manual coatings application such as paint brush, hand roller, trowel, etc. shall be used to reduce VOC emissions, where practical. Paint application shall use lower volatility paint not exceeding 100 grams of ROG per liter.

#### Land Use

- SC 4.1-1 All development proposed for the proposed single-family residence shall be reviewed for consistency with applicable provisions of the California Building Code, Noise Ordinance, Uniform Fire Code, and other applicable codes and ordinances prior to issuance of building permits.

#### Biological Resources

- SC 4.2-1 Bluff landscaping shall consist of native, drought tolerant plant species determined to be consistent with the California coastal bluff environment. Invasive and non-native species shall be removed. Irrigation of bluff faces to establish re-vegetated areas shall be temporary and used only to establish the plants. Upon establishment of the plantings, the temporary irrigation system shall be removed.

#### Aesthetics

- SC 4.3.1 Lighting shall be in compliance with applicable standards of the Zoning Code. Exterior on-site lighting shall be shielded and confined within site boundaries. No direct rays or glare are permitted to shine onto public streets or adjacent sites or create a public nuisance. "Walpak" type fixtures are not permitted.
- SC 4.3-2 Prior to issuance of the certificate of occupancy or final of building permits, the applicant shall schedule an evening inspection by the Code and Water Quality Enforcement Division to confirm control of light and glare.



**Table 1-1**  
**Summary of Impacts, Mitigation Measures and Level of Significance After Mitigation**

Potential Impact	Mitigation Measures	Level of Significance After Mitigation
<b>Aesthetics</b>		
The project has been redesigned to conform to the building and development standards prescribed in the R-1 zoning district and to avoid significant visual impacts. Project implementation will not result in significant impacts from an important vantage point identified in the Natural Resources Element of the General Plan. As a result, no significant visual or aesthetic impacts are anticipated.	<p>Although no significant impacts will occur as a result of project implementation, the following measure will be implemented to ensure that views through the site are maintained.</p> <p>MM 4.3-1 Prior to the issuance of a building permit, the applicant shall dedicate in perpetuity a view easement over the "Outdoor Room" identified on the approved plans and all open space areas on the project site that shall restrict the maximum height of landscaping and accessory structures to that of the top of the guardrails of the "Outdoor Room." The view easement shall be a three-dimensional space projected vertically from a horizontal plane at the elevation of the top of the guardrails of the "Outdoor Room" and horizontally to all property lines. The restrictions of the view easement shall not apply to the building and structures depicted on the approved project plans or to patio furniture. The form and legal description of the view easement shall be prepared by the applicant and reviewed and approved by the Planning Director.</p>	No Significant Impact
<b>Agriculture</b>		
No Prime Farmland, Farmland of State or Local Importance, or Unique Farmland occurs within or in the vicinity of the site. The site and adjacent areas are designated as "Urban and Built-up Land" and "Other Land" on the Orange County Important Farmland Map. Furthermore, neither the site nor the adjacent areas are designated as prime, unique or important farmlands by the State Resources Agency or by the Newport Beach General Plan.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
<b>Air Quality</b>		
Long-term emission sources associated with the proposed single-family residence include vehicular exhaust from daily traffic (i.e., based on about 10 vehicle trips per day), energy consumption, site and landscape maintenance, and incidental emissions from use of a variety of household cleaning and hair care products. Neither short-term (i.e., construction) nor long-term (i.e., operational) emissions	No significant impacts are anticipated and no mitigation measures are required.	Less than Significant

Potential Impact	Mitigation Measures	Level of Significance After Mitigation
associated with the proposed project would exceed SCAQMD recommended significance thresholds. These thresholds were developed to provide a method of assessing a project's individual impact significance, and also to determine whether the project's impacts could be cumulatively considerable. The proposed project would not, therefore, result in a cumulatively considerable net increase of any criteria pollutant.		
Although the project would increase the resident population on the project site, the proposed project includes only one single-family residence. The incremental increase in potential greenhouse gases associated with the proposed single-family residence would not be significant in the context of the contribution of worldwide GHG impacts.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
<b>Biological Resources</b>		
Although project implementation will result in the loss of 261 square feet (0.006 acre) of degraded coastal bluff scrub, its elimination will not result in a significant impact because it is of low quality and it has been substantially compromised by fragmentation and influences from human activities. As a result, it is not recognized as an ESHA. Its value as a long-term habitat is not considered to be important and no significant impacts to important biological resources would occur as a result of project implementation.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
<b>Cultural Resources</b>		
No historic resources are identified either on the site or in the immediate vicinity of the subject property. The site is not identified by the City as possessing potentially important historic resources. Therefore, project implementation will not result in potentially significant impacts to historic resources.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
No archaeological resources are known to be present in the project area. Project implementation includes excavation of the property to accommodate the proposed single-family residence. It is unlikely that the disturbance of the subsurface soils would result in significant impacts to cultural resources due to the site alteration associated with the existing development in the area and the nature of the bedrock materials that underlie the site (i.e., marine).	<p>Although no significant impacts to cultural resources are anticipated, an archaeological monitor will be present during grading to ensure that if any cultural materials are encountered, appropriate measures will be implemented in accordance with existing City policies as reflected below.</p> <p>MM-1 A qualified archaeological/paleontological monitor shall be retained by the project applicant who will be present during the grading and landform alteration phase. In the event that cultural resources and/or fossils are encountered during construction activities, ground-disturbing excavations in the vicinity of the discovery shall be</p>	Less than Significant

Potential Impact	Mitigation Measures	Level of Significance After Mitigation
	redirected or halted by the monitor until the find has been salvaged. Any artifacts and/or fossils discovered during project construction shall be prepared to a point of identification and stabilized for long-term storage. Any discovery, along with supporting documentation and an itemized catalogue, shall be accessioned into the collections of a suitable repository. Curation costs to accession any collections shall be the responsibility of the project applicant.	
The site contains the Monterey Formation deposits, which are known to contain abundant fossilized marine invertebrates and vertebrates. The presence of recorded fossils in the vicinity of the project areas exists. Like other sites in the City that are underlain by the Monterey Formation, the site should be considered to have a high paleontological sensitivity and fossils may be encountered during grading and excavation.	Refer to MM-1, above.	Less than Significant
<b>Soils and Geology</b>		
There are no known local or regional active earthquake faults on the site, and the site is not within an Alquist-Priolo Zone. The Newport-Inglewood Fault-Rose Canyon Fault is located less than two miles to the south of and off-shore from the site. Another active fault that could generate seismic activity that affects the subject property and surrounding area is the Elsinore Fault. The Newport-Inglewood and Elsinore Fault Zones could produce earthquakes of magnitude 6 – 7 on the Richter Scale, with local strong ground motion equivalent to at least VIII – IX on the modified Mercalli Scale. Although episodes on those faults could cause ground shaking at the project site, it is highly unlikely that the site would experience surface rupture.	No significant impacts are anticipated and no mitigation measures are required.	Less than Significant
Implementation of the proposed project will necessitate grading and excavation necessary to accommodate the proposed single-family residence that will temporarily expose on-site soils to potential erosion. In that interim period, it is possible that some erosion may occur, resulting in some sedimentation.	MM-2 Prior to issuance of the grading or building permit, an erosion control plan shall be submitted to and approved by the City's Chief Building Official.	Less than Significant
The orientation of the bedrock on the site is dipping into the slope, which is the preferred orientation for maintaining slope integrity. However, superficially, the cliff portions of the subject property are unstable as evidenced by the talus deposits that are present at the base of the steep slopes. However, all slopes on the site were determined to be grossly stable. The maximum slope height is 47 feet and slope angle ranges from 10 degrees to 90 degrees. Calculated factors of safety are in excess of 1.5 (static) and 1.1	MM-3 Prior to issuance of a grading permit, the applicant shall submit a soils engineering report and final geotechnical report to the City's Building Department for approval. The project shall be designed to incorporate the recommendations included in those reports that address site grading, site clearing, compaction, caissons, bearing capacity and settlement, lateral pressures, footing design, seismic design, slabs on grade, retaining wall design,	Less than Significant

Potential Impact	Mitigation Measures	Level of Significance After Mitigation
(Pseudo-static) of factors of safety required by the City of Newport Beach.	subdrain design, concrete, surface drainage, setback distance, excavations, cut-fill transitional zones, planters and slope maintenance, and driveways.	
<b>Hazards and Hazardous Materials</b>		
There is no indication that the subject site has been contaminated that would adversely affect site development. Although grading and site preparation activities will expose subsurface soils and result in the generation of fugitive dust, no hazardous emissions will occur as a result of project implementation. Therefore, no significant impacts will occur.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
With the exception of commonly used household hazardous materials (e.g., insecticides, herbicides, cleaning agents, etc.), the single-family residence proposed for the site will not utilize hazardous or acutely hazardous materials that would be emitted into the environment. Therefore, no significant impacts to existing schools will occur as a result of the proposed project.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
A search of various databases concerning hazardous wastes and substances sites was conducted through Environmental Data Resources, Inc. (EDR) as part of the environmental analysis. This search, which is on file with the City of Newport Beach, determined that the subject property is not included on any lists of hazardous materials sites compiled pursuant to Government Code Section 65962.5. Therefore, project implementation will not create a significant hazard either to the public or the environment.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
<b>Hydrology and Water Quality</b>		
This small-scale project would not result in a significant increase in water demand and all of the project's potable and non-potable water needs will be met through a connection to the City's domestic water system. The proposed single-family residence represents an insignificant increase in the demand for domestic water, which has been anticipated by the City in its long-range plans. No water wells are proposed or required to meet the water demands of this project.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
Existing surface runoff generated on the subject property occurs as sheet flow and drains in a southerly direction over the bluff where it enters the City's storm drain system before discharging into Newport Bay, which has been identified as containing "environmentally sensitive areas" as defined by the 2003 Orange County Drainage Area Management Plan (DAMP) and the Water Quality Control Plans for the Santa Ana Basin. The actual amount of stormwater runoff generated from the building footprint and paved areas (totaling	Compliance with applicable building, grading and water quality codes and policies, which are performed during the plan check stage, will ensure that surface flows can be accommodated and water quality protected.	No Significant Impact

Potential Impact	Mitigation Measures	Level of Significance After Mitigation
approximately 2,300 square feet) would be insignificant. As a result, no significant impacts are anticipated.		
The subject property is not located within the 100-year flood plain as delineated on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA) for the City of Newport Beach. No homes would be placed within the 100-year flood plain and no significant impacts would occur.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
Although some temporary impacts associated with construction of the proposed residential structure may occur, no long-term outdoor storage, maintenance, fueling or work areas are proposed. Vehicle parking areas are to be fully enclosed. The project will be designed to comply with all requisite codes and policies prescribed by the City of Newport Beach to ensure that stormwater impacts during or after construction are minimized or eliminated to the maximum extent possible.	Compliance with applicable building, grading and water quality codes and policies, which are performed during the plan check stage, will ensure that surface flows can be accommodated and water quality protected.	No Significant Impact
<b>Land Use and Planning</b>		
The proposed project, which includes the construction of one single-family detached residential dwelling unit on a 4,412-square foot lot in Corona del Mar, is consistent with the Land Use Element of the Newport Beach General Plan and with the Coastal Land Use Plan. The proposed project is also compatible with the existing land uses in the area. As a result, no significant long-term land use impacts are anticipated.	Although no significant land use impacts are anticipated and the project is consistent with the adopted goals and policies articulated in the City's General Plan and Coastal Land Use Plan, MM 4.3-1 (i.e., dedication of a view easement) has been prescribed to ensure that future views from Begonia Park are preserved and protected.	Less than Significant
<b>Mineral Resources</b>		
Neither the Newport Beach General Plan (Recreation and Open Space Element) nor the State of California has identified the project site or environs as a potential mineral resource of Statewide or regional significance. No mineral resources are known to exist and, therefore, project implementation will not result in any significant impacts.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
<b>Noise</b>		
The proposed residence is similar in nature as other single-family residences in the immediate project vicinity. Although on-site noise levels associated with residential activities (where none currently exist) would increase, it is anticipated that any such increase in long-term noise associated with the residential use would be those occurring as a result of outdoor activities and would be typical of noise levels in similar residential neighborhoods. If future residents and their guests should engage in activities that result in temporary,	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact

Potential Impact	Mitigation Measures	Level of Significance After Mitigation
loud noise levels that exceed the limits set forth in Chapter 10.26 of the City's Municipal Code, the City is empowered to take actions to abate that activity. This project would not result in exposure of neighboring residents or future residents on site to noise levels that exceed City standards. Therefore, no significant long-term noise impacts are anticipated.		
Short-term (construction) noise level increases will occur from the use of construction equipment associated with grading and excavation, and building and construction activities. Earthmoving equipment includes excavating machinery such as backhoes, bulldozers, and front loaders. Earthmoving and compacting equipment includes compactors, scrapers, and graders. Potential noise impacts vary markedly because the noise strength of construction equipment ranges widely as a function of the equipment used and its activity level. The exposure of persons to the periodic increase in noise levels will be short-term and will cease after construction is completed.	<p>MM-4 All construction equipment, stationary and mobile, shall be equipped with properly operating and maintained muffling devices. All construction equipment shall be located or operated as far as possible away from nearby residential units.</p> <p>MM-5 A construction schedule shall be developed that minimizes the duration of potential project-related and cumulative construction noise levels.</p> <p>MM-6 The construction contractor shall notify the residents of the construction schedule for the proposed project, and shall keep them informed on any changes to the schedule. The notification shall also identify the name and phone number of a contact person in case of complaints. The contact person shall take all reasonable steps to resolve the complaint.</p>	Less than Significant
<b>Population and Housing</b>		
The proposed project is consistent with the adopted land use designation and zoning applicable to the subject property. Development of the site with one single-family residence in accordance with the adopted long-range plans for the subject property would not result in significant growth and, furthermore, would not result in the potential for unanticipated growth because the project is located in an area that is virtually built out. As "in-fill" development, construction of the proposed project would not necessitate the implementation of new infrastructure such as major roadway improvements and/or the extension of infrastructure that could induce unanticipated growth and development. All of the infrastructure, including sewer and water facilities, storm drains, roadways, etc., exist in the immediate vicinity of the project site and have adequate capacity to serve the proposed project. Therefore, no significant growth-inducing impacts will occur as a result of project implementation.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact

Potential Impact	Mitigation Measures	Level of Significance After Mitigation
Project implementation will not result in the displacement of any existing residential dwelling units that would necessitate replacement elsewhere in the City; no significant impacts will occur.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
<b>Public Services</b>		
The project includes all necessary fire protection devices, including fire sprinklers. The project must comply with the current Building and Fire Codes adopted by the City. A code compliance analysis will be conducted by City staff to ensure that adequate water pressure and related features required by the City are provided to ensure that the project complies with the CFC and related City codes. Adequate water supplies and infrastructure, including fire hydrants, exist in the vicinity of the project, and there is no requirement for other new facilities or emergency services.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
Development of the subject site with one single-family would not require an expansion to local law enforcement resources and therefore would not result in any environmental impacts involving construction of new law enforcement facilities. No significant impacts are anticipated.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
The proposed project would not generate a significant number of new students in the District. New or expanded school facilities would not be required to provide classroom and support space for these low numbers of school age children. However, as indicated above, the project applicant must pay the applicable school fee to the school district, pursuant to Section 65995 of the California Government Code, in order to offset the incremental cost impact of expanding school resources to accommodate the increased student enrollment associated with one new residence.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
No increased demand for other public services is anticipated and there would be no need to construct any new public facilities. No significant impacts are anticipated.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
<b>Recreation</b>		
Although residents of the proposed project would occasionally visit local and regional parks and beaches, use of those public facilities by the future residents would not represent a substantial change in the intensity of usage and the impact would not result in substantial physical deterioration of those park areas. Development of the site with one single-family residence will not require the construction of new or the expansion of existing recreational facilities in the City of Newport Beach given the small increase in population. No significant impacts to recreational facilities are anticipated.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact

Potential Impact	Mitigation Measures	Level of Significance After Mitigation
<b>Transportation/Traffic</b>		
During the construction phase, there will be periods of time when a heavy truck traffic would occur that could result in some congestion on Pacific Drive and nearby local/residential street system. It is estimated that a total of 52 heavy trucks would be generated as a result of the grading that would be necessary to haul the estimated 630 cubic yards of soil export from the site. However, once grading has been completed, the number of heavy trucks entering and leaving the project area would be limited to those transporting equipment and materials to the site. Other construction-related traffic impacts are associated with vehicles carrying workers to and from the site and medium and heavy trucks carrying construction materials to the project site, which may result in some minor traffic delays; however, potential traffic interference caused by construction vehicles would create a temporary/short-term impact to vehicles using neighboring streets in the morning and afternoon hours.	<p>The following mitigation measure is proposed to minimize the level of impact associated with temporary construction traffic:</p> <p>MM-7 Prior to commencement of each major phase of construction, the Contractor shall submit a construction staging, parking and traffic control plan for approval by the Public Works Department, which shall address issues pertaining to potential traffic conflicts during peak traffic periods, potential displacement of on-street parking, and safety.</p> <ul style="list-style-type: none"> <li>This plan shall identify the proposed construction staging area(s), construction crew parking area(s), estimated number and types of vehicles that will occur during that phase, the proposed arrival/departure routes and operational safeguards (e.g. flagmen, barricades, shuttle services, etc.) and hourly restrictions, if necessary, to avoid traffic conflicts during peak traffic periods, displacement of on-street parking and to ensure safety.</li> <li>If necessary, the construction staging, parking and traffic control plan shall provide for an off-site parking lot for construction crews which will be shuttled to and from the project site at the beginning and end of each day until such time that the project site can accommodate off-street construction vehicle parking. Until that time, construction crews shall be prohibited from parking in the adjacent residential neighborhood.</li> <li>The plan shall identify all construction traffic routes, which shall avoid narrow residential streets unless there is no alternative, and the plan shall not include any streets where some form of construction is underway within or adjacent to the street that would impact the efficacy of the proposed route.</li> <li>Dirt hauling shall not be scheduled during weekday peak hour traffic periods or during the summer season (Memorial Day holiday weekend through and including the Labor Day holiday weekend).</li> </ul>	Less than Significant



Potential Impact	Mitigation Measures	Level of Significance After Mitigation
	<ul style="list-style-type: none"> <li>The approved construction staging, parking traffic control plan shall be implemented throughout each major construction phase.</li> </ul>	
Long-term traffic impacts would not occur as a result of project implementation. The trip generation associated with one home is less than 10 trips per day. The addition of 10 trips on the City's circulation system would not result in potentially significant impacts to either roadway segments or intersections.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
During the construction phases, temporary displacement of public on-street parking may be caused by construction crew members utilizing that parking, and possibly while large truck delivery and pick up of machinery and construction materials. This will occur during construction and will cease when construction concludes. The project provides parking in accordance with the Zoning Code (two enclosed spaces). No public parking is presently afforded along the curb in front of the project site as it is painted as a "red curb;" therefore, construction of the proposed driveway approach will not displace any existing public parking.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
<b>Utilities &amp; Service Systems</b>		
Water demand and wastewater generation will not increase significantly as a result of the development of one home on the site. The proposed project is consistent with the zoning and land use designations, which are the basis of future water demand demands and wastewater generation within the City. The project will connect to existing water and wastewater facilities in Pacific Avenue or other nearby roadways. No expansion of these facilities is necessary as existing capacity is adequate. No significant impacts are anticipated.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
The project will result in additional impervious surface areas by the new building, walkways and other hardscape. The additional hardscape will result in a slight increase in runoff during storm periods. The site will be designed in accordance with the California Building Code to ensure that stormwater runoff will be directed to existing facilities, which have capacity to collect and convey the runoff before its discharge into Newport Bay. Therefore, the slight increase in project-related storm flows will not result in a potentially significant impact.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
Although project implementation could result in the generation of some refuse during the construction phase, it would be small and would not adversely affect existing capacities at the County's sanitary landfills. Furthermore, the project will not result in a significant	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact

Potential Impact	Mitigation Measures	Level of Significance After Mitigation
increase in solid waste production due to the increase on one single-family residence. Existing landfills are expected to have adequate capacity to service the site and use. No significant impacts are anticipated.		

## CHAPTER 3.0 PROJECT DESCRIPTION

### 3.1 Project Location

The City of Newport Beach is an urbanized coastal community located in western Orange County (refer to Exhibit 3-1). Newport Beach is bordered by the Cities of Irvine on the north and northeast and by Costa Mesa on the north and northwest. Crystal Cove State Park, which is located in unincorporated Orange County, is located southeast of the City's corporate boundaries. On the west, the incorporated limits of the City extend to the Santa Ana River; the City of Huntington Beach is located west of the Santa Ana River. The Pacific Ocean comprises the southwestern boundary of the City. The relationship of the City of Newport Beach with the region is illustrated in Exhibit 3-1 (Regional Location).

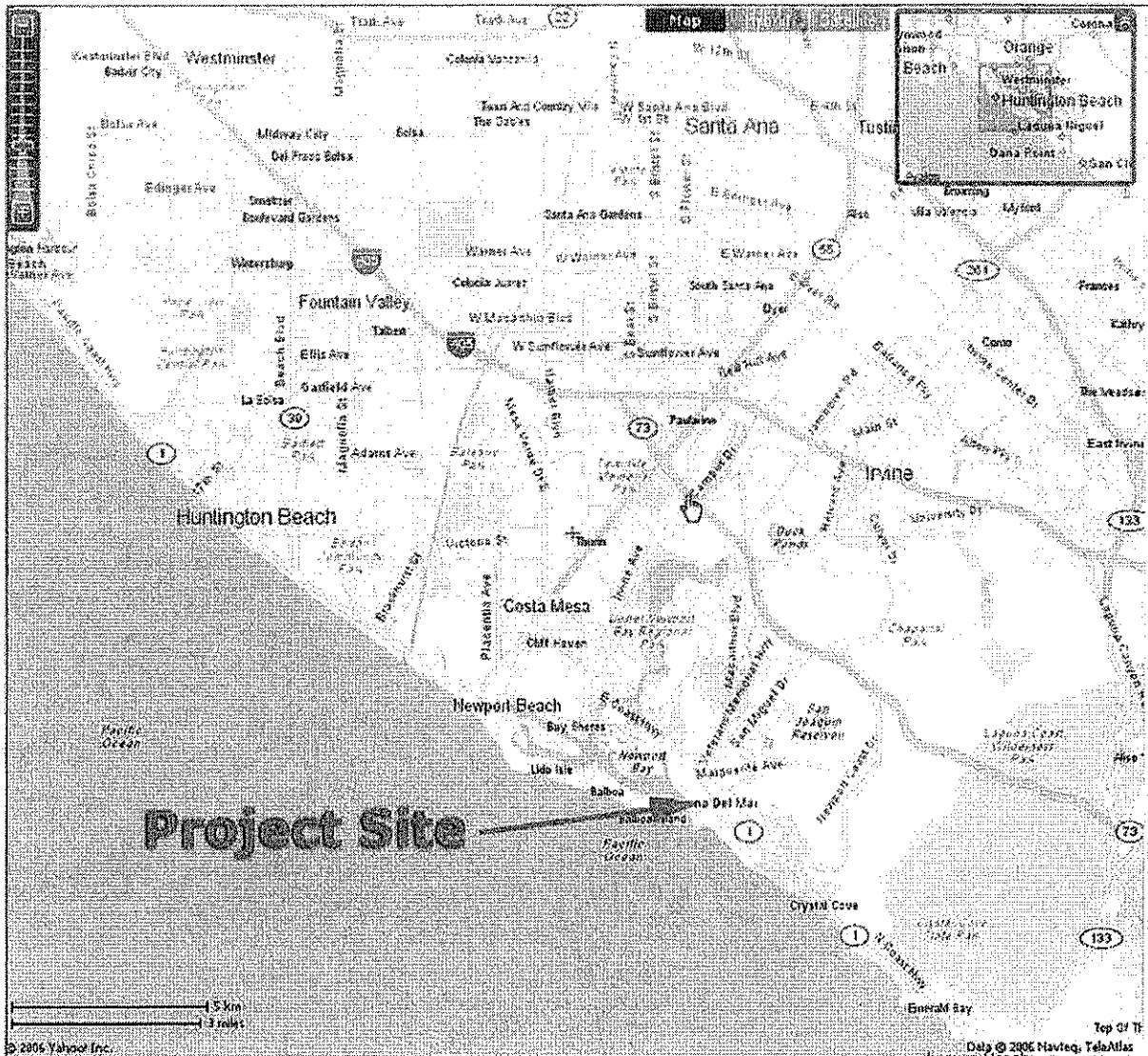
The City of Newport Beach has developed as a grouping of small communities or "villages," primarily due to the natural geographic form of the Newport Bay. Many of the newer developments, located inland from the bay, have been based on a "Planned Community" concept, resulting in an extension of the village form, even where no major geographic division exists. The various villages provide for a wide variety of types and styles of development, both residential and commercial. The City includes lower density, single-family residential areas, as well as more intensively developed residential beach areas. Commercial areas range from master planned employment centers to marine industrial, neighborhood shopping centers, a regional shopping center, and visitor commercial areas.

The subject property consists of a single parcel (APN 052-011-01), encompassing a total area of 4,412 square feet, or approximately 0.1 acre. The site, which is located at 2333 Pacific Avenue within the Corona del Mar neighborhood in the City of Newport Beach (refer to Exhibit 3-2, Vicinity Map), is currently undeveloped.

### 3.2 Environmental Setting

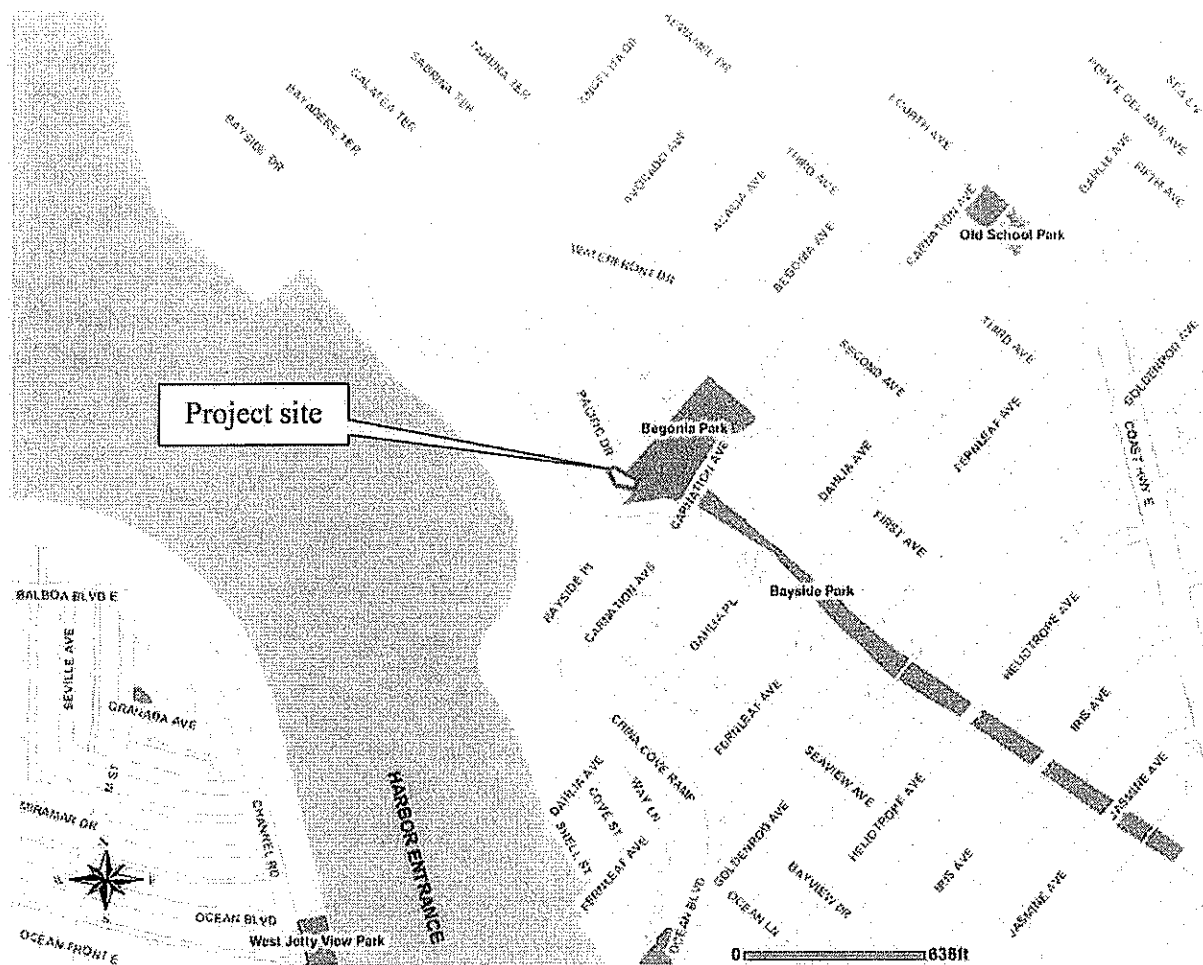
#### 3.2.1 Existing Land Use

As previously indicated, the subject property, which encompasses the undeveloped portion of an existing coastal bluff, is vacant. Elevations on the site range from approximately 25 feet above mean sea level (msl) at the base of the coastal bluff along the westerly property boundary, to approximately 72 feet above msl in the northwesterly corner of the site. A variety of native and non-native plants are supported on the site. The vegetation on the subject property has been classified in three categories: disturbed; disturbed/ornamental; and coastal bluff scrub.



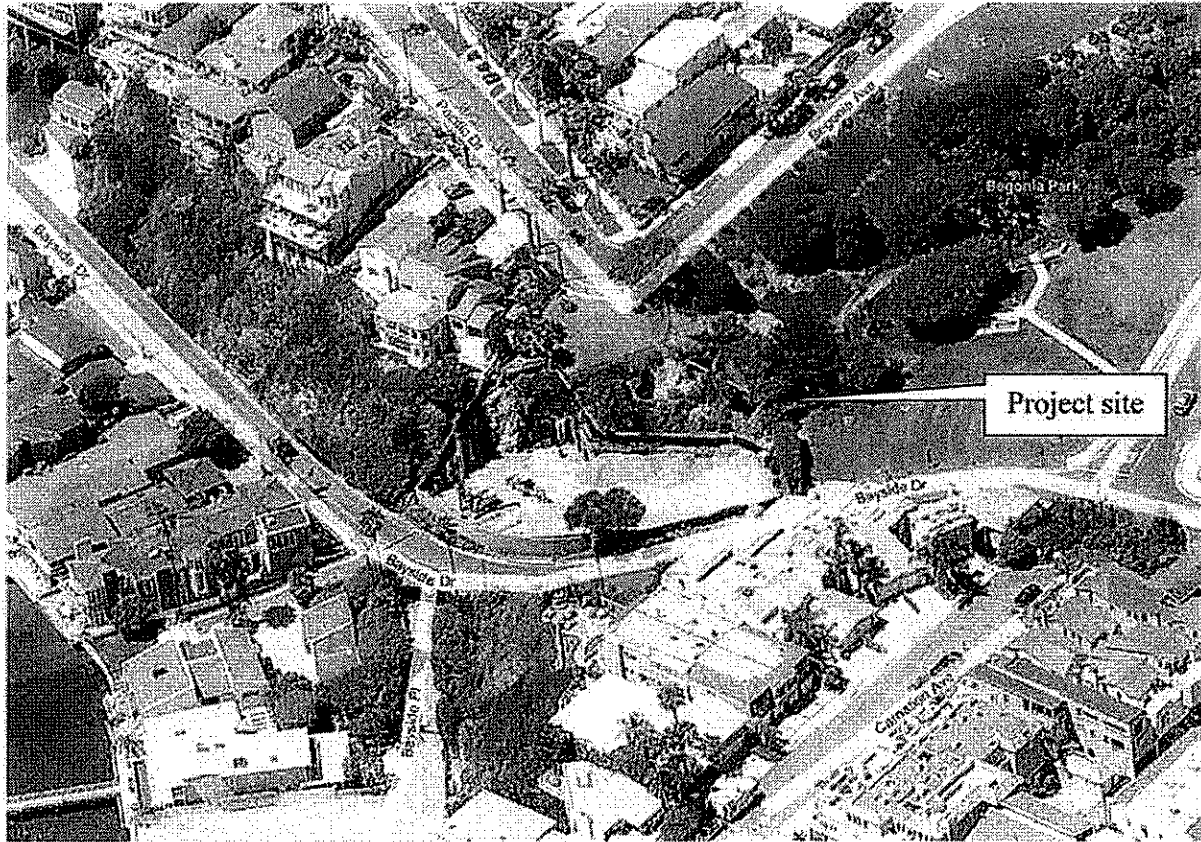
**Exhibit 3-1  
Regional Map**

SOURCE: City OF Newport Beach



**Exhibit 3-2  
Vicinity Map**

SOURCE: City of Newport Beach



**Exhibit 3-3**  
**Aerial Photograph**

SOURCE: City of Newport Beach

### Surrounding Land Uses

The area in the vicinity where the Property is located is nearly completely developed with single-family residences (refer to Exhibit 3-3). A variety of architectural styles characterize the area. As indicated below, the subject property is currently undeveloped and is surrounded by development on three sides, including single-family residences on the north, south and west. Begonia Park is located east of the site. The aerial photograph illustrates the undeveloped site and the existing land uses surrounding the site.

#### **3.2.2 Existing General Plan**

The subject property is located within Statistical Area F2, which encompasses single-family and two-family residential development in Corona del Mar generally east of Avocado Avenue, north of Bayside Drive and south of the commercial properties on the south side of Coast Highway. As illustrated in Exhibit 3-4, the site is designated RS-D (Single-Unit Residential – Detached). Property to the west is also designated RS-D. Properties to the north, south and east are designated RT (Two-Unit Residential), RM (Multiple-Unit Residential), and PR (Parks and Recreation), respectively.

#### **3.2.3 Coastal Land Use Plan**

The City's Coastal Land Use Plan (CLUP) was derived from the Land Use Element of the City's General Plan and is intended to identify the distribution of land uses in the coastal zone. The subject property is currently designated RL (Low Density Residential). As prescribed in the CLUP, development within the coastal zone shall not exceed a development limit established by the General Plan or its implementing ordinances.

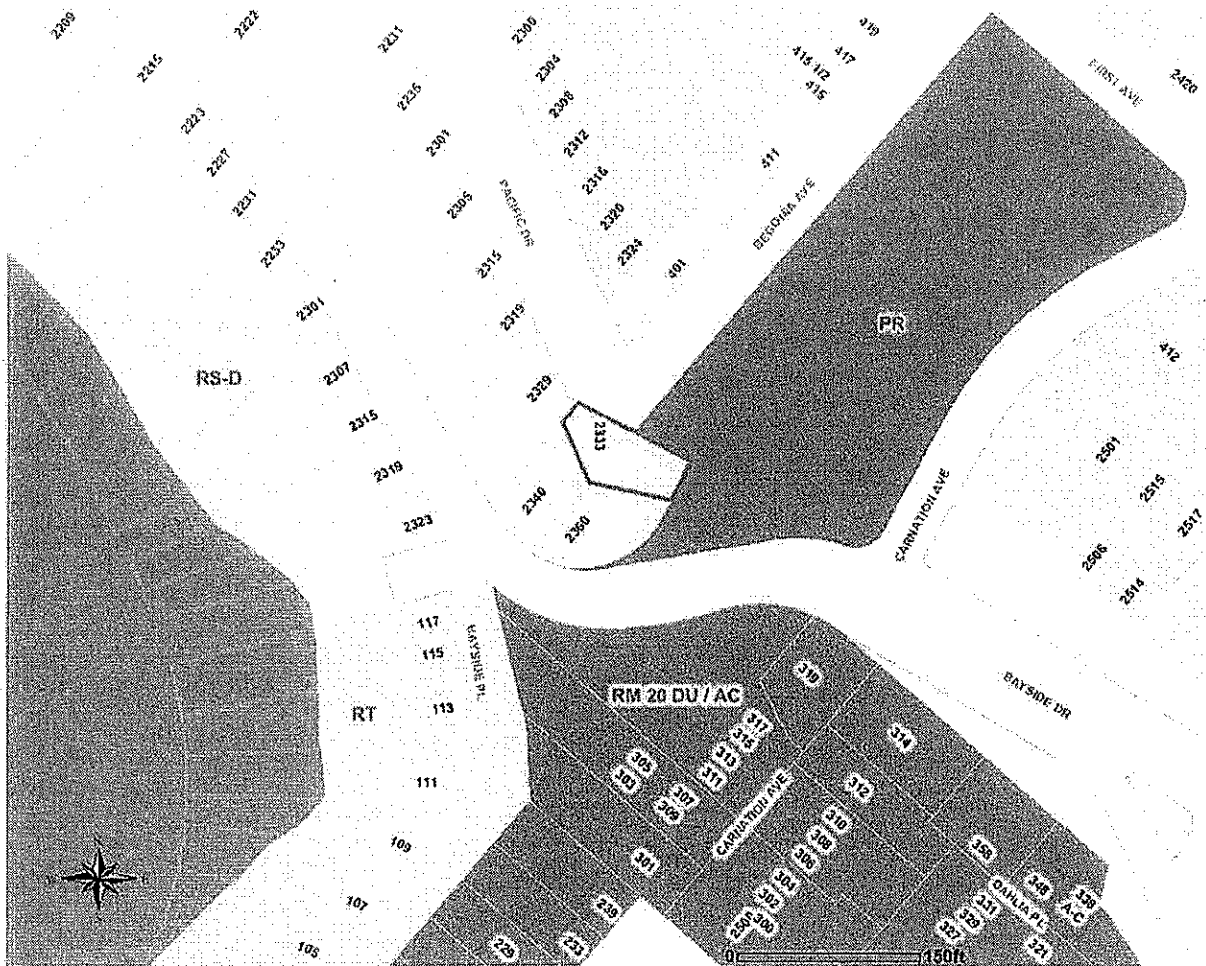
#### **3.2.4 Existing Zoning**

The subject property is zoned R-1 (Single-Family Residential). R-1 zoned properties are also located east, west and south of the site. R-2 (Two-Family Residential) zoned property is located to the north. MFR (Multiple-Family Residential) zoning exists on property located south of Bayside Drive. Existing zoning for the subject property and surrounding area is illustrated on Exhibit 3-5.

#### **3.2.5 Physical Environment**

##### Climate and Air Quality

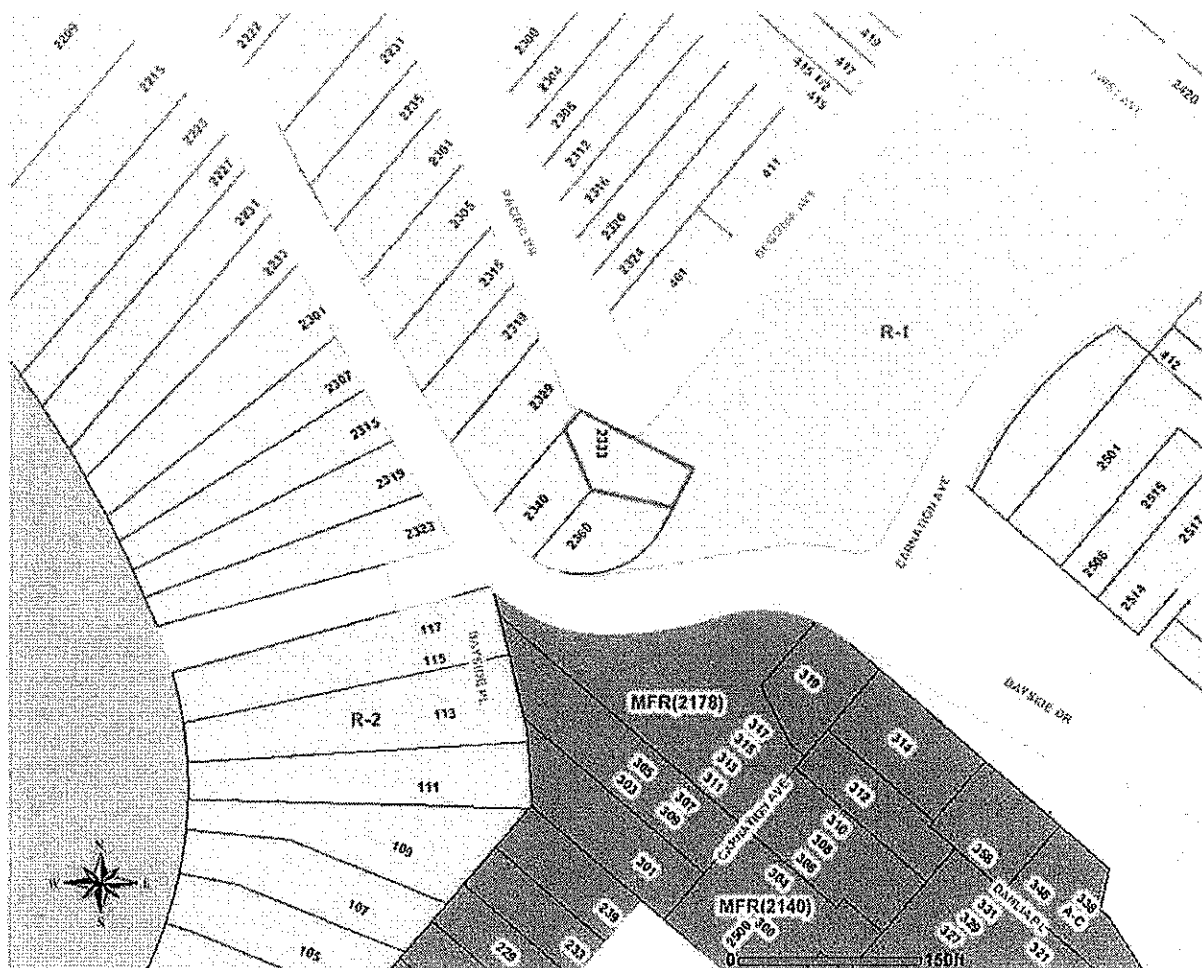
The project site is located within the South Coast Air Basin (SCAB), a 6,600 square mile area encompassing all of Orange County and the non-desert portions of Los Angeles, Riverside, and San Bernardino Counties. A persistent high-pressure area that commonly resides over the eastern Pacific Ocean largely dominates regional meteorology. The distinctive climate of this area is determined primarily by its terrain and geographic location. Local climate is characterized by warm summers, mild winters, infrequent rainfall, moderate daytime onshore breezes, and moderate humidity. Ozone and pollutant concentrations tend to be lower along the coast, where the constant onshore breeze disperses pollutants toward the inland valley of the SCAB and adjacent deserts. However, as a whole, the SCAB fails to meet national standards for several criteria pollutants, including ozone, carbon monoxide and PM<sub>10</sub>, and is classified as a "non-attainment" area for those pollutants.



**Exhibit 3-4  
Existing General Plan**

SOURCE: Newport Beach General Plan Land Use Element





**Exhibit 3-5  
Existing Zoning**

SOURCE: City of Newport Beach

### Geology and Seismicity

The project site is located in the seismically active southern California region. There are no active faults or fault systems known to exist on or in the immediate vicinity of the project site. In addition, the project site is not within an earthquake fault zone as illustrated on the maps issued by the State Geologist for the area pursuant to the Alquist-Priolo Earthquake Fault Zoning Act. Although there are no active faults or fault systems known to exist on or in the immediate vicinity of the project site, it is subject to seismic shaking resulting from earthquakes occurring on one or more of the regional faults. The closest active faults within 50 miles of the project site are the Newport-Inglewood, Norwalk, and Elsinore Faults. The Newport-Inglewood fault, which is the only active fault within or immediately adjacent to the City of Newport Beach, could generate a 7.0 magnitude or greater maximum credible earthquake.

The topography of the subject site slopes toward Newport Bay. As previously indicated, site elevation ranges from approximately 72 feet above msl at the top of the bluff to about 25 feet above msl at the base of the bluff at the southern property boundary. The geologic units underlying the subject property and environs include artificial fill, slopewash, unconsolidated talus deposits (i.e., eroded fragments of the Monterey formation), and bedrock of the Monterey formation, which underlies the surficial materials.

### Drainage and Hydrology

As previously indicated, the entire site is undeveloped and is generally devoid of impervious surfaces. At the present time, surface runoff generated on the site drains in a southeasterly direction over the bluff. The subject property is not located within the 100- or 500-year flood plain as delineated on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA) for the City of Newport Beach. Further, neither the subject property nor the surrounding residential development is located in an area of the City that is subject to flooding resulting from the failure of a levee or dam.

### Transportation and Circulation

The subject property is bounded by Pacific Avenue, which turns northerly into Begonia Avenue at the easterly limits of the site. Bayside Drive provides access to single-family residential properties below the bluff south of the site. No access is provided from Bayside Drive to the project site. Regional access to the project area is available from West Coast Highway (California State Route 1) via the Corona del Mar Freeway (California State Route 73), MacArthur Boulevard, and Jamboree Road and also from the Costa Mesa Freeway (California State Route 55) and Newport Boulevard. The area in which the subject property is located is served by a "grid" of residential streets that extends to the north and south from West Coast Highway. Vehicular access to the project area is available from West Coast Highway via Begonia Avenue. The area in which the subject property is located is primarily residential in nature.

### Public Services and Utilities

Fire protection facilities and service to the subject property are provided by the Newport Beach Fire Department (NBFD). The NBFD operates and maintains eight fire stations to respond to emergency calls throughout the City. Fire Station No. 5 is located at 410 Marigold in Corona del Mar, less than one mile east of the site. This fire station is supported by one fire engine and one paramedic van. Fire Station No. 3 in Fashion Island is located less than two miles from the site. In addition to the City's resources, the NBFD also maintains a formal mutual aid agreement with the Orange County Fire Authority (OCFA) and all neighboring municipal fire departments to facilitate fire protection in the City should the need arise. The Newport Beach Police Department (NBPD) is responsible for providing police and law enforcement services within the corporate limits of the City. The Police Department headquarters is located at 870 Santa Barbara Drive, at the intersection of Jamboree Road and Santa Barbara, less than two miles

northwest of the subject property. Police and law enforcement service in the City is provided by patrols with designated "beats."

The City of Newport Beach owns and maintains several sewer and water mains in the vicinity of the subject property, including those in Pacific Avenue and Begonia Avenue. Sewer collection and wastewater treatment services are provided by the City of Newport Beach (local collection) and the Orange County Sanitation District (conveyance and treatment). In addition, all of the utilities (i.e., electricity, natural gas, and telephone) are currently available and serve the existing development. The project site receives electrical and natural gas service from Southern California Edison and Southern California Gas Company, respectively.

### **3.2.6 Surrounding Environment**

The City of Newport Beach is nearly fully developed with a diverse mixture of residential, institutional, commercial, industrial, and recreational and open space uses. The predominant land use in the City is residential, which is characterized by many distinct neighborhoods. Older communities were first developed along the coastline, including the Peninsula, West Newport, Balboa Island, and Lido Isle. The early housing is characterized by a diversity of multiple-family, single-family, and mixed-use housing located within proximity of commercial and visitor-serving uses. While single-family attached and detached residential development comprise the majority of housing in the City, many multiple-family dwelling units, including condominium, apartments, duplex, triplex, and fourplex units, exist in Newport Beach and, in particular, in the older neighborhoods including West Newport.

Between 1980 and 2005, 11,127 housing units were added to the City's inventory of housing stock. Although the rate of increase in housing within the City has slowed since 1990, the City averaged approximately 200 to 300 dwelling units per year between 2001 and 2005 (with the exception of 2003, which included the annexation of Newport Coast). The total number of housing units as of January 1, 2005, was estimated to be 42,143, including approximately 26,000 units (62 percent) that are single-family attached and detached homes. Thirteen percent of the units (5,475 homes) were duplex, triplex, and fourplex units. Other multiple-family dwelling units in the City in 2005 totaled 9,721 (23 percent). The remainder of the dwelling units in the City were mobile homes (863 or two percent). The overall vacancy rate of housing in the City of Newport Beach ranged from 10.1 and 11.3 percent between 1980 and 2000, respectively; however, there are a significant number of homes in the City that are classified as seasonal units and second homes. The vacancy rate in all units in the City in 2005 was reported to be 10.91 percent.

A variety of retail uses are located throughout the City and include those in neighborhood shopping centers, commercial strips and villages, and shopping centers, with the largest being Fashion Island, a regional center that is framed by a mixture of office, entertainment, and residential uses. Other neighborhood retail centers are located throughout the City. In addition to the retail uses, the City also supports a variety of professional office uses, which are located mostly within Newport Center and the Airport Area. Industrial uses are primarily located within the West Newport Mesa area, east of Banning Ranch, and include a variety of industrial, manufacturing, and supporting retail uses. Research and development uses are clustered in the Airport Area while government, educational, and institutional uses are scattered throughout the City. One of the primary locations for medical uses in the City is near Hoag Hospital, which is located at the intersection of West Coast Highway and Newport Boulevard.

## **3.3 History and Evolution of the Proposed Development**

On April 3, 2008, the Newport Beach Planning Commission reviewed an application for a proposed 3,717 square foot single-unit dwelling on the subject property. The application included a variance to allow a

proposed single-family dwelling unit to exceed the 24-foot height limit (by approximately 4.5 feet to 10.5 feet) and a modification permit to allow the dwelling unit to encroach five feet into the required 5-foot front yard setback. Based on testimony provided at the hearing, the Planning Commission concluded that the project was inconsistent with policies relating to public view protection and neighborhood compatibility and directed City staff and the applicant to revise the project to, among other things, protect the Begonia Park view corridor by reducing the height, scale and massing of the residence. The Commission considered the visual quality of the site itself a lesser priority than protecting public views from Begonia Park or the street, knowing that by rejecting the requested Variance to building height there would be more building below the viewshed from Begonia Park on the face of the bluff.

The applicant submitted a revised application (i.e., proposed project) on July 24, 2008, that included a 3,566 square foot residence that conformed to all Zoning code property development regulations, with the exception of the planter walls that exceed the 3-foot front yard setback height limit, which requires approval of a modification permit. The prior variance proposed requesting exceedance of the height limits was withdrawn. Key changes from the previous design included:

- Designed below the maximum height limit
- Single story at street level compared to two stories in the prior plan submittal
- Finished floor of the ground level (i.e., third floor) is approximately 12 feet lower than prior design.
- Floor area reduced to 3,566 square feet (151 square foot reduction)
- Conformance with the 5-foot front yard setback
- Clearstory windows added to front elevation

The Planning Commission conducted a public hearing on August 21, 2008 on the revised project, focusing on the project's consistency with General Plan policies relating to public view protection, neighborhood compatibility, and landform protection. The Planning Commission determined that the revised project was consistent with their prior direction and in substantial conformance with the policies of the General Plan as well as with Criterion No. 7 of Ordinance No. 2007-3 (Residential Design Criteria), which is used to determine a project's consistency with General Plan policies related to site planning and resource protection. The Planning Commission approved the Modification Permit. The Planning Commission also required that the applicant dedicate a view easement that would restrict the heights of the principal structure and of landscaping and accessory structures on the proposed terraces and in open areas.

On August 28, 2008, an appeal of the Planning Commission's project approval was filed. Pursuant to Section 29.95.060C, a public hearing on the appeal was conducted "de novo," (i.e., a new hearing by another decision-making body that is not bound by the prior decision, which has no force or effect as of the date the appeal was filed). Subsequent to the appeal, the City Council and the applicant agreed that a Draft Environmental Impact Report should be prepared for the revised project.



### 3.4 Description of the Proposed Project

The project applicants, Kim and Caroline Megonigal, are proposing to construct a single-family residence on the subject property, as illustrated in the Conceptual Site Plan (refer to Exhibit 3-6) and as described below.

The applicants propose to construct a 3,566 square-foot, single-family residence (including the garage floor area). The proposed residence will consist of three levels: 1,827 square feet on the first floor; 934 square feet on the second floor; and 805 square feet on the uppermost level (including a 428-square foot, 2-car garage). Total floor area, not including the garage, is 3,138 square feet. Vehicular access is from Pacific Drive at the intersection of Begonia Avenue and Pacific Drive. In addition to the indoor living area, 1,004 square feet of outdoor patio space on the three levels is provided. The front and rear elevations are illustrated in Exhibits 3-7 and 3-8, respectively.

The applicants are requesting approval of Modification Permit No. 2007-080 to allow planter walls to exceed the three-foot height limit requirement in the front yard setback. In addition, because the proposed planter walls would also encroach into the Begonia Avenue right-of-way, an encroachment permit from the City's Public Works Department will also be required. Lastly, grading of approximately 630 cubic yards of export, landscaping, and utility connections necessary for construction of the proposed residence are also included.

### 3.5 Project Phasing

The applicant is proposing to construct the project in a single phase over a period of approximately 20 months.

### 3.6 Project Objectives

Implementation of the proposed project will achieve the following intended specific objectives, which have been identified by the project applicant:

- Construction of a custom, single-family residence consistent with the General Plan and Zoning designations adopted for the project that:
  - (1) provides adequate floor area within a personalized floor plan to accommodate the applicant's living needs;
  - (2) provides views of the harbor and Pacific Ocean to the south and west from each level;
  - (3) provides outdoor living areas that are directly accessible from indoor spaces on each level;
  - (4) provides access from Pacific Drive to an enclosed garage; and
  - (5) minimizes impacts on public views from Begonia Park.





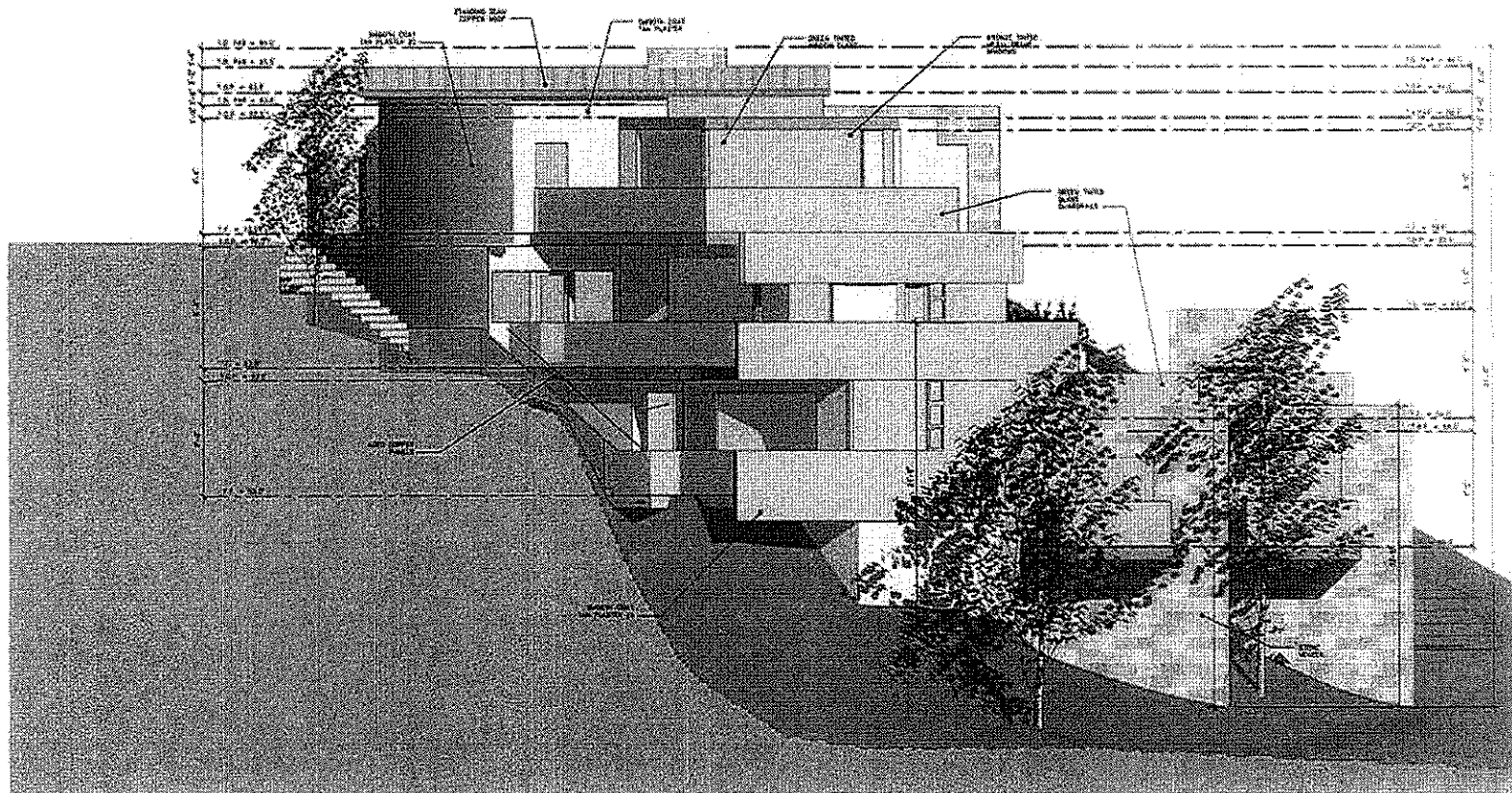


Exhibit 3-8  
Rear Elevation



### 3.7 Project Processing Requirements and Requested Entitlements

Project implementation will necessitate the approval of the following discretionary actions by the Newport Beach Planning Commission:

- Modification Permit (MD2005-087)

The Modification Permit is required to allow planter walls to exceed the three-foot height limit requirement in the front yard setback. The proposed planter walls exceed the 3-foot height limit by up to 6 feet 7 inches, as measured from the natural grade.

To: City of Newport Beach Mayor and City Council

March 2009

From: Environmental Quality Affairs Citizens Advisory Committee (EQAC)

Subject: Potential Ordinance to Ban Leaf Blowers in Newport Beach

## **BACKGROUND**

Gas-powered and electrically-operated leaf blowers, vacuums and mulchers are widely used and have been this subject of significant objections by residents who experience the noise, combustion products and fugitive dust produced by such equipment. The California Air Resources Board (Ref. 1) recognized the potential health impacts of using this equipment by the operators and others in the vicinity. They recommended use of safety equipment by the operators (e.g. filtered masks, earplugs, safety glasses), but suggested further study on the potential hazards beyond the operator. Other environmental groups including ZAP (Zero Air Pollution, Ref. 2) have encouraged more restrictions on such equipment because of the potentially harmful and nuisance effects to nearby non-operators due to noise, combustion- product air pollution and fugitive dust (containing PM10 and PM2.5 particulates, garden chemicals, fungi etc.), all of which are felt well beyond the immediate area of operation.

## **AIR POLLUTION ISSUES**

Casual observations of operations make it obvious that leaf blowers (gas or electric powered) are significant producers of local air pollution. EPA reports warn of dust clouds consisting of particulate matters, fecal matter, pesticides, fungi, chemicals,

fertilizers, spores and street dirt (containing lead and organic and elemental carbon). Such clouds are evident everywhere leaf blowers are used. In addition, gas powered machines produce unusually high concentrations exhaust emission products (hydrocarbons, carbon monoxide and particulates). While industry groups claim that these emissions average less than 1% of emissions pollution in a typical long-term scenario, other studies show that local, short term exposures can be 10-100 times the long term averages. The combination of these leaf blower exhaust emissions and the associated dust cloud contaminants represents a significant nuisance and potential health hazard to those in the vicinity of their operation.

## **NOISE ISSUES**

Leaf blowers from all manufacturers produce objectionable levels of local noise. This problem has been addressed by most manufacturers of newest models (see Table below), but they all operate at noise levels that exceed Newport Beach and other city municipal code noise allowable levels as discussed below. Even though their use is intermittent, while in operation, these devices produce objectionable local noise levels.

## TYPICAL LEAF BLOWER CHARACTERISTICS

(2009 Models)

<u>BRAND</u>	<u>TYPE/POWER</u>	<u>WT-LB</u>	AIR	SOUND
			<u>VEL-MPH</u>	<u>LEVELdb(A)</u>
Toro 51599	Handheld/Electric	7.3	112-235	63-67
Black&Deckerbv4000	Handheld/Electric	8.1	230	65
Husqvarna 125B	Handheld/Gas Eng.	9.4	170	70
Stihl BG55	Handheld/Gas Eng.	9.0	140	69
Stihl BR380D	Backpack/Gas Eng.	20.5	181	73
Echo PB-265LC	Backpack/Gas Eng.	13.3	135	65

- NOTES:
1. Sound levels measured at 50-ft. per ANSI B175.2.
  2. NB Municipal Code 10.28.045 defines allowable noise levels of 55-60db(A).

### CURRENT SITUATION

Newport Beach and other densely populated areas are particularly susceptible to the secondary effects of the use of portable leaf blowers/mulchers. As a result, it is estimated (Ref. 3) that up to 100 California cities have imposed bans or restrictions on their use in their communities. These have taken the form of total and complete bans (as in Laguna Beach) or stringent restrictions (as in Palo Alto and Los Angeles). Other actions include ordinances requiring training and use of safety equipment by operators, relief for use in industrial/commercial areas versus residential areas and allowance for use of electric but not gas-powered equipment.

These municipal controls have led to objections by equipment suppliers and user groups and there have been unsuccessful attempts in Sacramento to prevent municipalities from imposing bans or restrictions.

In addition, user groups have raised concerns regarding potential economic impact of bans on the use of such equipment. To date, we have found no specific data (anecdotal or formal) to quantify this objection.

## **EXAMPLES**

EQAC has performed a limited internet search to determine current status of some ordinances. Apparently because of the difficulty in quantifying the air pollution and fugitive dust components of the problem, all existing controls are focused on the health hazards or nuisance concerns of noise and are contained within the Municipal Codes related to residential noise control.

Los Angeles: Has had existing ordinance No. 171890 since 1998. Refer to Los Angeles Municipal Code Chapter XI (Noise Regulation, Article 2, Special Noise Sources), Section 112.04 (Distance Restrictions). The last change code for this was dated 6/10/2005. Equipment cannot operate within 500 feet of a residence if the equipment exceeds 65 db(A) at 50 feet from the equipment. We have obtained no input on compliance/enforcement issues.

Palo Alto: Has had an ordinance since 2005 amending Municipal Code Title 9 (Peace, Morals and Safety), Chapter 9.10 (Noise), Item 9.10.030 (Residential Property Noise Limits). It bans gas-powered and electrically-operated equipment with noise level more than 6db above local ambient, but allows electrically operated blowers powered by

gas powered electrical generators which are compliant with local noise ordinances.

Enforcement has been more complicated and expensive than desired according to an August 7, 2006 status report by the Palo Alto City Manager (Ref. 4).

Laguna Beach: Ordinance 1259 amended Municipal Code Title 7 (Health and Sanitation), Section 7.25.071, Item D to now read as follows:

*"The use of electrical gas powered blowers, such as used by gardeners and other persons for cleaning lawns, yards, driveways, gutters and other property is prohibited at any time within the city limits".*

This is the most complete, least equivocal position we have seen. Compliance Officer, Joe Trujillo (949-497-0301) stated in a telephone interview that "in two years on the job I have had no more than 3 or 4 complaints. We have had negligible compliance problems and good community support. If we see a potential problem while on patrol, we hand out a copy of the ordinance and it is solved then and there."

## **RECOMMENDATION**

Research shows that ordinances to ban or control leaf blowers have been successfully implemented in residential areas in other communities in California. Compliance enforcement experience varies widely among communities, with the most successful compliance apparently occurring in the city with the most restrictive ordinance – Laguna Beach. EQAC recommends that the city of Newport Beach take steps needed to evaluate whether a similar residential leaf blower ban is feasible here. The following steps are recommended:

1. Direct staff to confirm above findings and expand the database with other communities as needed.
2. Conduct an outreach activity to quantify the perceived economic impacts (i.e. increased labor costs) on the affected residential property owners.
3. Conduct outreach to determine residential community reactions (positive and negative) to such an ordinance.
4. Based on above, decide whether to proceed with a complete ban, limited ban, imposition of more restrictive standards (noise and air pollution) or continue with the current ordinance (10.28.045).

## REFERENCES

1. California Air Resources Board, "A Report to the California Legislature on the Potential Health and Environmental Impacts of Leaf Blowers", Feb. 2000
2. Zero Air Pollution web site: [zapla.org](http://zapla.org)
3. Citizens for a Cleaner, Better Lincoln web site: [ccb.lincoln.com](http://ccb.lincoln.com) (other cities and towns heading).
4. Palo Alto City Manager Interim Report to City Council, "Gas-Powered Leaf Blower Ban Enforcement – One Year Status Report", Aug. 7, 2006



**CITY HALL AND PARK DEVELOPMENT PLAN (CIVIC CENTER)**  
**EQAC DEIR ASSIGNMENTS**  
**September 4, 2009**

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3.0	PROJECT DESCRIPTION	Haskell
4.0	EXISTING ENVIRONMENTAL SETTING, ENVIRONMENTAL ANALYSIS, IMPACTS, AND MITIGATION MEASURES	
	4.1 LAND USE	Alti
	4.2 TRAFFIC AND CIRCULATION	Stoaks
	4.3 AESTHETICS	Thibault
	4.4 AIR QUALITY	Smith
	4.5 BIOLOGICAL RESOURCES	Curran
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